

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THEOPHILUS AKWEI,)	
)	
Plaintiff,)	Civil Action No. 3:18-189
)	District Judge Kim R. Gibson
v.)	Magistrate Judge Maureen P. Kelly
)	
BUREAU OF PRISONS, MOSHANNON)	Re: ECF Nos. 19, 24, 50
VALLEY CORRECTIONAL CENTER, DR.)	
ZIMMERLY, and GEO INC,)	
)	
Defendants.)	

ORDER

AND NOW, this 2nd day of March, 2020, upon consideration of the Motion to Dismiss filed by Defendants Moshannon Valley Correctional Center and GEO, Inc., ECF No. 19; the Motion to Dismiss filed by Defendant Bureau of Prisons, ECF No. 24, and the Motion to Dismiss or in the alternative, Motion for Summary Judgment filed by Defendant Dr. Zimmerly, ECF No. 50, and, upon review of the Report and Recommendation filed by the United States Magistrate Judge, ECF No. 57, and upon consideration of the Objections filed by Plaintiff, ECF No. 63, and the Response to the Objections submitted by Defendant Bureau of Prisons, ECF No. 64, and upon independent review of the record,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation is adopted as the opinion of this Court.

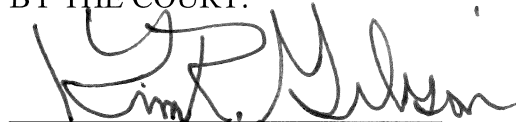
IT IS FURTHER ORDERED as follows:

1. The Motion to Dismiss filed on behalf of Defendant the Federal Bureau of Prisons, ECF No. 24, is granted and Plaintiff's Fifth and Eighth Amendment claims against the Bureau of Prisons are dismissed with prejudice;

2. The Motion to Dismiss filed on behalf of Defendants MVCC and Geo, ECF No. 19, is granted, and (i) Plaintiff's Eighth Amendment claims are dismissed with prejudice, (ii) Plaintiff's professional negligence claims are dismissed, but Plaintiff is granted leave to file the required certificate of merit as to his professional negligence claims against MVCC and Geo within sixty (60) days, or suffer dismissal of his claims with prejudice; and (iii) Plaintiff's ordinary negligence claims against MVCC and Geo are dismissed, but Plaintiff is granted leave to file an Amended Complaint within thirty (30) days to correct the deficiencies to these claims identified in the Report and Recommendation; and
3. The Motion to Dismiss filed by Defendant Zimmerly, M.D., ECF No. 50, is granted, but Plaintiff is granted leave to file the required certificate as to his professional negligence claims against Dr. Zimmerly within sixty (60) days, or suffer dismissal of his professional negligence claims against Dr. Zimmerly with prejudice. Plaintiff is further granted leave to file an Amended Complaint to correct the deficiencies identified in this Report and Recommendation, if possible, with respect to the timeliness of his claims against Dr. Zimmerly.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Wilson", written over a horizontal line.

United States District Judge

cc: Honorable Maureen P. Kelly
United States Magistrate Judge

All Counsel of Record Via CM-ECF